

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**TESSA M. PRUITT,  
RESPONDENT**

**vs.**

**DIRECTOR OF REVENUE OF THE STATE OF MISSOURI, et al.,  
APPELLANT**

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DOCKET NUMBER WD70414

DATE: MARCH 2, 2010

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Appeal from:

Callaway County Circuit Court  
The Honorable Patrick A. Horner, Judge

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Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

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Attorneys:

Tessa M. Pruitt, Respondent Acting Pro-se

James A. Chenault, for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**TESSA M. PRUITT, RESPONDENT**

**v.**

**DIRECTOR OF REVENUE OF THE STATE OF MISSOURI, et al., APPELLANT**

WD70414

Callaway County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

The Director of Revenue for the State of Missouri appeals from a judgment entered in the Circuit Court of Callaway County reinstating the driver's license of Tessa Pruitt finding that she had not refused to submit to a chemical test of her blood alcohol level because she had taken a breathalyzer test that rendered a valid result.

**REVERSED AND REMANDED.**

**Division Two holds:**

(1) A driver who has produced a requested breath sample can, under § 577.020.2, be required to submit to a second chemical test or have his or her driving privileges suspended for refusing such a test. The trial court misapplied the law in concluding that Pruitt could not be deemed to have refused a chemical test after having already provided a valid breathalyzer test.

Opinion by Joseph M. Ellis, Judge

Date: March 2, 2010

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